United Nations CRC/C/PRT/CO/3-4

Convention on the Rights of the Child

Distr.: General
25 February 2014

Original: English

Committee on the Rights of the Child

Concluding observations on the combined third and fourth periodic report of Portugal*

1. The Committee considered the combined third and fourth periodic reports of Portugal (CRC/C/PRT/3-4) at its 1860th and 1861st meetings (see CRC/C/SR.1860 and1861), held on 22 January 2014, and adopted, at its 1875th meeting (see CRC/C/SR.1875), held on 31 January 2014, the following concluding observations.

I. Introduction

2. The Committee welcomes the submission of the State party's combined third and fourth periodic reports, although it regrets the delay in submission. The Committee appreciates the written responses to the list of issues (CRC/C/PRT/Q/2-3/Add.1), the fruitful dialogue held with the large and multisectoral delegation, and the supplementary information provided following the dialogue, which allowed for a better understanding of the situation of children in the State party.

II. Foliow-up measures undertaken and progress achieved by the State party

3. The Committee welcomes the adoption of numerous legislative measures, including:

(a) Decree Law No. 133/2012 and Decree Law No. 70/2010 amending Decree Law No. 91/2009 establishing the parental protection benefits regime;

(b) Decree Law No. 63/2010 and Decree Law No. 108/2009 amending Decree Law No. 12/2008 providing support to the foster care system in cases of need, including through the payment of cash support;

(c) Decree Law No. 87/2008 increasing social protection for single-parent families;

(d) Decree Law No. 3/2008 as amended by Decree Law No. 21/2008 defining specialized support for preschool education, and to basic and secondary education;

* Adopted by the Committee at its sixty-fifth session (13-31 January 2014).

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(e) Decree Law No. 308-A/2007 establishing prenatal child benefits for pregnant women;

(f) Decree Law 59/2007 amending the Penal Code, criminalizing all forms of corporal punishment of children and making domestic violence an autonomous crime;

(g) Decree Law No. 46/2006 relating to discrimination against persons with disabilities, and accessibility and Decree Law No. 38/2004 establishing the legal regime for persons with disabilities,

(h) Decree Law No. 31/2003 establishing the new legal regime for adoption;

(i) Decree Law No. 176/2003, as amended and later republished as Decree Law No. 133/2012, regarding family benefits for low-income families.

4. The Committee also notes with appreciation the ratification of or accession to the:

(a) Optional Protocol to the Convention on the Rights of the Child on a communications procedure, in 2013;

(b) Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, in 2003;

(c) Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in 2003;

(d) International Convention for the Protection of All Persons from Enforced Disappearance, in 2013;

(e) Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, in 2013;

(f) Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, (in 2013;

(g) Convention on the Rights of Persons with Disabilities, in 2009;

(h) Optional Protocol to the Convention on the Rights of Persons with Disabilities, in 2009;

(i) Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, in 2004;

(j) Convention on Protection of Children and Co-operation in respect of Intercountry Adoption (No. 33, Hague Conference on Private International Law), in 2004;

(k) Council of Europe Convention on preventing and combating violence against women and domestic violence, in 2013;

(l) Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, in 2012;

(m) Council of Europe Convention on Action against Trafficking in Human Beings, in February 2008.

5. The Committee also welcomes the numerous institutional and policy measures, including the following recent measures:

(a) Second National Plan against Trafficking in Human Beings (2012-2013);

(b) Social Emergency Programme (PES), adopted in 2011;

(c) National Action Plan for Integration of Immigrants (2010-2013);

(d) Initiative for Childhood and Adolescence (INIA), adopted in 2007;

(e) The creation of the Office to Support Roma Communities, as well as the establishment of a pilot project for municipal Roma mediators in 2007;

(f) The establishment of the Programme for the Extension of Social Facilities Network (PARES) by Governmental Decree No. 426/2006;

(g) The establishment of the Support Programme for Investment of Social Facilities (PAIES) by Ministerial Order No. 869/2006;

(h) Action Plan for the Integration of Persons with Disabilities approved by the Council of Ministers in resolution 120/2006;

(i) The National Network of Domestic Violence Centres established in 2005; the Second National Plan for Equality for 2003 to 2006 established by the Council of Ministers in resolution 184/2003, and the Third National Plan for Equality, Citizenship and Gender for the period 2007-2010.

6. The Committee notes as positive the standing invitation extended by the State party to United Nations special procedures in March 2001. The Committee welcomes the statement by the delegation that the State party intends to further strengthen cooperation with United Nations human rights mechanisms, including special procedures.

III. Factors and difficulties impeding the implementation of the Convention

7. The Committee notes that the recession and the current financial and economic crisis are taking their toll on families and on public social investment, including on the prospects of implementing the Convention, especially with regard to article 4 of the Convention, increasing the risk of children being exposed to poverty and affecting the enjoyment of many of the rights contained in the Convention, including the rights to health, education and social protection. In this respect, the Committee shares the State party's commitment as expressed during the dialogue that in time of fiscal and budgetary constraint, efforts must be made to sustain social investment for and the social protection of those in the most vulnerable situations and to employ an equitable approach, giving priority to children.

IV. Main areas of concern and recommendations

A. General measures of implementation (arts. 4, 42 and 44 (6) of the Convention)

The Committee's previous recommendations

8. The Committee, while welcoming the State party's efforts to implement the Committee's concluding observations of 2001 (CRC/C/15/Add.162) on the State party's second periodic report (CRC/C/65/Add.11), notes with regret that some of the recommendations contained therein have not been fully addressed.

Legislation

9. The Committee notes the adoption of various child-related legislative measures during the period under review to ensure further conformity of domestic legislation with the principles and provisions of the Convention relating to, inter alia, the prohibition of all forms of corporal punishment of children; civil sponsorship; social protection of maternity,

paternity and adoption; special education needs for children with disabilities; and procedures for granting asylum, subsidiary protection or refugee status, including for unaccompanied children.

10. **The Committee encourages the State party to continue to take steps to ensure that domestic legislation is fully compatible with the principles and provisions of the Convention and ensure the effective implementation of child-related laws at the national, provincial and municipal levels.**

Comprehensive policy and strategy

11. The Committee welcomes the adoption in 2007 of the Initiative for Childhood and Adolescence (INIA) along with the National Plan of Action for Inclusion (NAPI), which was established in 2001. Both programmes, according to the State party's report, constitute efforts to define a national strategy for the implementation of the Convention. Although some facets of the above programmes have been incorporated into the Social Emergency Programme established in 2011, the Committee is deeply concerned that INIA has been discontinued and that the State party lacks a comprehensive policy on children to effectively monitor progress in the implementation of children's rights throughout the country.

12. **The Committee encourages the State party to establish a comprehensive national strategy for the implementation of the Convention, including specific time-bound and measurable goals and targets to effectively monitor progress in the implementation of child's rights throughout the State party. The national strategy should be linked to national, sectoral and municipal strategies and budgets to ensure appropriate allocation of the human, technical and financial resources required for its implementation.**

Coordination

13. Noting the State party's replies to the lists of issues stating that the National Human Rights Committee is responsible for intergovernmental coordination with the aim of promoting an integrated approach to human rights policies, the Committee is concerned that the National Human Rights Committee lacks a clear and specific mandate for national coordination of all activities undertaken to implement the Convention. The Committee is also concerned that human and financial resources may not be adequate for the National Human Rights Committee to discharge its functions effectively.

14. **The Committee recommends that the State party review and clarify the role of the National Human Rights Committee to coordinate the implementation of child-rights policies and programmes among all the relevant ministries and institutions and at all levels, ensuring the participation of civil society in the implementation of the Convention. It also recommends that the State party provide the National Human Rights Committee with the human, technical and financial resources necessary to implement comprehensive, coherent and consistent child-rights policies at the national, provincial and municipal levels and to assess the impact of such policies and programmes on children's rights.**

Allocation of resources

15. In the light of the current financial crisis, the Committee notes the State party's efforts to allocate resources with a view to protecting the most vulnerable members of society, including children. The Committee expresses its concern, however, at the negative effects of austerity measures on public spending, which affect benefits and services provided to families with children, especially Roma. The Committee is also concerned

about the lack of data on the proportion of budgetary allocations for the implementation of children's rights under the Convention and information on the impact of austerity measures on children in the State party.

16. **The Committee urges the State party to:**

(a) Conduct a comprehensive assessment of budget needs of children and allocate adequate budgetary resources in accordance with article 4 of the Convention for the implementation of children's rights and in particular to increase the budget allocated to social sectors, and address disparities on the basis of indicators related to children's rights;

(b) Utilize a child-rights approach in the elaboration of the State budget with clear allocations for children in the relevant sectors and agencies, as well as specific indicators and a tracking system;

(c) Establish mechanisms to monitor and evaluate the efficacy, adequacy and equitability of the distribution of resources allocated to the implementation of the Convention;

(d) Define strategic budgetary lines for children in disadvantaged or vulnerable situations who may require affirmative social measures, and make sure that those budgetary lines are protected even in situations of economic crisis, natural disasters and emergencies;

(e) Take into consideration the recommendations made by the Committee during its day of general discussion in 2007 on "Resources for the rights of the child – responsibility of States", with emphasis on articles 2, 3, 4 and 6 of the Convention;

(f) Provide disaggregated information on the proportion of the national budget allocated to the implementation of the rights of the child at the national and local levels.

Data collection

17. The Committee recognizes the efforts of the State party to collect data on the implementation of the Convention in the case of children placed in institutions and foster care (Immediate Intervention Plan), the 2006 National Adoption Lists, and other data collection mechanisms relating to juvenile civil cases, civil society organizations for children, and group homes for children. In spite of those initiatives, the Committee is concerned that there is still no comprehensive mechanism for generating, collecting, analysing and coordinating data on the various aspects of children's lives. The Committee is also concerned that data are not sufficiently disaggregated for all areas covered by the Convention.

18. **Recalling its general comment No. 5 (2003) on general measures of implementation of the Convention on the Rights of the Child, the Committee encourages the State party to strengthen its efforts to establish a more comprehensive and integrated data collection system on children, covering the entire period of childhood up to the age of 18, and to introduce indicators on children's rights against which progress in the realization of those rights could be analysed and assessed. The data should be disaggregated by age, sex, geographic location, ethnicity, migration status and socioeconomic background to facilitate determination of the overall situation of children and provide guidance for the formulation of programmes.**

Independent monitoring

19. The Committee appreciates the status and the range of activities undertaken by the Office of the Ombudsperson, in particular, its monitoring in the area of children's rights through its complaints mechanism and its toll-free telephone hotline, as well as the creation of the new Department on Children, Elderly Persons and Persons with Disabilities under a Deputy Ombudsperson. However, the Committee is concerned about the level of resources allocated to the Office of the Ombudsperson for it to discharge its mandated functions as well as awareness of the mandate of the Ombudsperson among the general public and children, in particular.

20. **Taking into account general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child, the Committee recommends that the State party provide the Office of the Ombudsperson and the Department on Children, Elderly Persons and Persons with Disabilities with adequate human, technical and financial resources or the effective implementation of their mandated functions. The Committee also encourages the State party to raise awareness among the general public, and children in particular, of their right to file a complaint directly with the Ombudsperson, and to ensure that the procedures are accessible, simple and child friendly.**

Dissemination and awareness-raising

21. While welcoming the dissemination of the reports submitted by Portugal to the United Nations human rights treaty bodies, the lists of issues and replies thereto, the concluding observations and general comments on the website of the Office for Documentation and Comparative Law of the Prosecutor General, the Committee is concerned that the Convention is not systematically disseminated among children, the public at large and professionals working with and for children.

22. **The Committee recommends that the State party continue to incorporate child-rights issues into all curricula at the various levels of education and strengthen awareness-raising programmes, including campaigns on the Convention, among children, families and professionals working with and for children, particularly health service personnel, teachers, early childhood workers, lawyers, the judiciary and the police.**

Training

23. The Committee welcomes the initiative of the Social Security Institute to provide training to professionals working for or with children, including social workers, multidisciplinary teams supporting the courts in the context of promotion and protection processes and juvenile civil cases, professionals and staff working in all forms of alternative care, and at children and youth centres. The Committee additionally welcomes the training initiatives within the Ministry of Internal Affairs for members of the Borders and Foreigners Service, the Public Security Police and the National Republican Guard, as well as the Guidelines for Citizenship in the School Context initiative of the Ministry of Education and the publication of training manuals on human rights and child rights. The Committee is nevertheless concerned that training on children's rights has been negatively affected by budget cuts due to the financial crisis and does not reach all levels of society, including children and professionals working with or for children.

24. **The Committee recommends that the State party strengthen and expand the above-mentioned initiatives in order to ensure systematic, mandatory and ongoing training on children's rights for the society at large, children and professionals working with and for children, in particular judges and magistrates, social workers,**

law enforcement officials, health-care personnel, professionals and staff working in all forms of alternative care, and the media.

B. General principles (arts. 2, 3, 6 and 12 of the Convention)

Non-discrimination

25. The Committee welcomes the numerous measures, programmes and plans of action initiated by the State party to address discrimination in the context of children and families living in poverty, and groups in disadvantaged situations, notably the National Strategy for the Integration of the Roma Communities for the period 2013-2020, and other measures to combat discrimination, including support centres for immigrants and the establishment of Education for Citizenship Guidelines to sensitize school staff and other educational stakeholders in order to facilitate the integration of children of immigrants and ethnic minorities in schools. The Committee is concerned, however, that despite considerable action taken by the State party, immigrants, foreigners and ethnic and racial minorities, including the Roma minority and people of African descent, continue in practice to face discrimination in access to housing, employment, education, equal wages, health care and public services. The Committee is also concerned about reported cases of discriminatory conduct and ill-treatment of, and manifestations of racist stereotyping and prejudice towards, immigrants, foreigners and ethnic and racial minorities by law enforcement officials, as well as discrimination against lesbian, gay, bisexual and transgender adolescents.

26. **In the light of article 2 of the Convention, the Committee recommends that the State party ensure that all children in the State party enjoy equal rights under the Convention without discrimination and, to that end:**

(a) Intensify efforts to ensure the effective elimination of any form of discrimination against children of immigrants, foreigners and ethnic and racial minorities, including the Roma minority and people of African descent, as well as lesbian, gay, bisexual and transgender adolescents through, among other things, awareness-raising campaigns and intercultural dialogue, especially at the community level and in schools;

(b) Strengthen training for law enforcement officials to ensure that they fully respect and protect the fundamental rights of all persons, without discrimination on the basis of race, colour or ethnic or national origin, and ensure that law enforcement officials are held accountable for misconduct and sanctioned, as appropriate.

Best interests of the child

27. The Committee welcomes the inclusion of the principle of the best interests of the child in the Constitution and in legislation, as well as its use by judges and magistrates in decisions affecting children. It also welcomes the establishment in May 2012 of a governmental working group to assess proceedings and legal issues that relate to defining the best interests of the child. However, the Committee is concerned about the lack of a uniform process to determine the best interests of the child, as well as the lack of guidance to relevant authorities for the application of the right of the child to have his or her best interests taken into account as a primary consideration.

28. **The Committee draws the State party's attention to its general comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration and recommends that the State party strengthen its efforts to ensure that this right is appropriately integrated and consistently applied in all legislative,**

administrative and judicial proceedings as well as in all policies, programmes and projects relevant to and with an impact on children. In this regard, the State party is encouraged to develop procedures and criteria to provide guidance to all relevant persons in authority for determining the best interests of the child in every area and for giving them due weight as a primary consideration. Such procedures and criteria should be disseminated to public and private social welfare institutions, courts of law, administrative authorities, legislative bodies and the public at large.

Right to life, survival and development

29. The Committee welcomes the establishment of the National Programme for the Prevention of Accidents (2010-2016), which promotes child road safety, and other programmes regarding road safety, as well as awareness-raising activities. The Committee, however, reiterates its concern about the number of accidents, in particular traffic accidents,s cases of drowning and falls, which result in a high number of children's deaths, hospitalizations, and temporary and permanent incapacities.

30. **In addition to its previous recommendation in this regard (CRC/C/15/Add.162, para. 25 (2001)), the Committee recommends that the Government:**

(a) Strengthen its plan of action for child safety, enforce child safety measures, especially with respect to the use of safety belts and restraints adapted to the size and weight of the child, carry out awareness-raising activities and impose sanctions in cases of children being transported without safety belts or restraints;

(b) Strengthen the legal framework for the safety of children in swimming pools, including the obligation to have a protective fence, in keeping with European legislation in that regard. The legal framework should cover all swimming pools, including private pools in apartment complexes, hotels and resorts;

(c) Ensure that building regulations adequately protect children by reducing the risk of falls on building and construction sites;

(d) Provide information on children's hospitalizations and emergency room visits as a result of accidents, to assess the scope of the problem.

Respect for the views of the child

31. The Committee notes the State party's ongoing efforts to ensure respect for the views of the child in protection cases, cases involving parental responsibilities, adoption proceedings, juvenile justice and other relevant areas, and the role of the Ombudsperson in ensuring this right. The Committee is concerned, however, that respect for the views of the child is not adequately implemented in practice in all relevant areas and at the national and local levels. It is also concerned that the views of the child are not being sufficiently taken into consideration regarding the education system and its reform, and that there is insufficient training of professionals working with and for children regarding the right of the child to be heard.

32. **In view of its general comment No. 12 (2009) on the right of the child to be heard, the Committee urges the State party to:**

(a) Strengthen its efforts, including in respect of legislation, to ensure that the right of the child to be heard applies to all judicial, including civil and penal matters, and administrative proceedings affecting children and that due weight is given to those views in accordance with the age and maturity of the child concerned;

(b) Strengthen efforts to ensure that children have the right to express their views freely in all matters affecting them and have those views given due weight in

schools and other educational institutions, as well as in the family, including with respect to an evaluation of the education system to determine the reasons for high dropout and repetition rates across all regions with a view to reforming the system to best meet the educational needs of children;

(c) Ensure that professionals in the judicial, welfare and other sectors dealing with children systematically receive appropriate training on hearing and taking into account children's views in all decisions affecting them and in accordance with the child's age and maturity.

C. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39 of the Convention)

Corporal punishment

33. While noting the revision of the Penal Code in 2007 to prohibit corporal punishment of children, including within the family, and other measures to combat this practice, such as the Council of Europe Raise your hand against smacking! campaign, the Committee is concerned that corporal punishment continues to be practised within the family and is widely accepted in society.

34. **In line with its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, and general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, the Committee recommends that the State party continue its efforts, through awareness-raising campaigns and parenting education programmes to end the practice of corporal punishment in all settings, including in the home. The Committee also urges the State party to promote positive, non-violent and participatory forms of child-rearing and discipline as an alternative to corporal punishment.**

Abuse and neglect

35. The Committee welcomes the legal reforms and measures introduced to protect children living in institutions from sexual abuse as one of the outcomes of the years-long investigation, trial and eventual conviction of offenders in the State-run Casa Pia residential home, which was the first time an institutional sex abuse case was taken to court in Portugal. The Committee notes the growing number of incidents reported to the police and investigated since then, and the resulting increase in awareness of the risk of sexual abuse of children in vulnerable situations. The Committee also welcomes the adoption of the Fourth National Action Plan against Domestic Violence (2011-2013), the promulgation of the Law on the Protection of Children and Young People at Risk, which makes it mandatory for professionals, the authorities and citizens in general to report situations of danger, including abuse and neglect of children, as well as other measures taken by the State party, including the strengthening of data collection and monitoring of cases of abuse and neglect, the establishment of a national network of centres for the support of children at risk, and the implementation and promotion of national emergency helplines. The Committee is concerned, however, about the high number of cases of child abuse and neglect, and that the difficult socioeconomic situation facing families and the resulting high levels of stress and pressure can result in serious risks of domestic violence towards children.

36. **Recalling the recommendations contained in the 2006 report of the independent expert for the United Nations study on violence against children (see A/61/299), the Committee recommends that the State party prioritize the elimination of all forms of**

violence against children. The Committee also recommends that the State party take into account general comment No. 13 (2011) on the right of the child to freedom from all forms of violence and, in particular, that it:

(a) Continue to take steps, in particular in accordance with its Fourth National Action Plan against Domestic Violence (2011-2013), to combat and prevent domestic violence against women and children and ensure that victims have effective access to complaint mechanisms;

(b) Ensure that acts of abuse, neglect and domestic violence are effectively investigated and that the perpetrators are brought to justice;

(c) Facilitate the physical and psychological rehabilitation of the victims and ensure access for them to health services, including mental health services;

(d) Ensure that victims have access to means of protection, including an adequate number of shelters for women and children;

(e) Monitor with particular attention situations that may present risks of abuse and neglect for children as a consequence of the financial crisis;

(f) Ensure that all professionals and staff working with and for children are provided with the necessary training, supervision and background checks, and that parents are informed in all possible ways of where they can seek help to prevent and handle possible future risks of child abuse;

(g) Provide reliable statistical data to evaluate and monitor implementation of the legislation, including information on sanctions imposed on the perpetrators, and complaint mechanisms for child victims;

(h) Cooperate with the Special Representative of the Secretary-General on Violence against Children, and other relevant United Nations institutions.

Bullfighting

37. The Committee is concerned about the physical and mental well-being of children involved in training for bullfighting, and performances associated with it, as well as the mental and emotional well-being of child spectators who are exposed to the violence of bullfighting.

38. **The Committee, with a view to the eventual prohibition of the participation of children in bullfighting, urges the State party to take the necessary legislative and administrative measures in order to protect all children involved in bullfighting training and performances, as well as in their capacity as spectators. This may include increasing the minimum age of 12 years for such training, including in bullfighting schools and on private farms, and for the participation of children in bullfighting, as well as increasing the minimum age of 6 years for children allowed to attend such events as spectators. The Committee also urges the State party to undertake awareness-raising about the physical and mental violence associated with bullfighting and its impact on children.**

D. Family environment and alternative care (arts. 5, 9-11. 18(1) and (2), 20, 21, 25 and 27 (4) of the Convention)

Family environment

39. While welcoming the wide range of social support programmes for families, including the Social Emergency Programme, the Committee is concerned that many

families, in particular those in situations of poverty, lack appropriate assistance in the performance of their child-rearing responsibilities, especially financial support and accessible early childhood education and care for young children. The Committee is particularly concerned at the situation of children in families affected by the current economic crisis, who are in need of affirmative social measures, in particular single-parent families, families with two or more children, families with children with disabilities and families living in persistent poverty.

40. **The Committee recommends that the State party intensify its efforts to render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities, in particular in situations of poverty. It also recommends that the State party ensure that the needs of all children are met and that it takes all the necessary measures to ensure that no group of children lives below the poverty line. The Committee further recommends that the State party strengthen the system of family benefits and child allowances, and other services, such as counselling services and accessible early childhood education and care, to support families affected by the current economic crisis, single-parent families, families with two or more children, families with children with disabilities and families living in persistent poverty, in line with the European Commission policy paper on early childhood education and care.**

Children deprived of a family environment

41. The Committee welcomes the adoption of the Law on the Protection of Children and Young People at Risk, measures taken with regard to family reunification and efforts to promote the deinstitutionalization of children living in care facilities, including the increasing number of children living in group homes. However, the Committee expresses its concern at:

(a) The low number of foster families and family-based placements of children, and the still widespread use of institutionalization, in particular of younger children;

(b) The lack of data on institutions and group homes, as well as the lack of systematic monitoring of the situation of children in alternative care;

(c) The insufficient administrative and technical support and resources to ensure the effective functioning of the alternative care system, which is worsening in the context of the current crisis, as well as the lack of information on national policies and standards on staff recruitment, conduct and monitoring, the standards of care provided, the procedures to report misconduct, and training requirements on care standards in alternative care settings;

(d) The lack of information on national policies regarding the maintenance of up-to-date records, the confidentiality of those records and access to those records by children, if required; (e) The lack of information on the preparation of children who are leaving alternative care, and on the support provided by the State party to ensure that they can live independently, including education, vocational training, housing and employment.

42. **The Committee recommends that the State party undertake the following measures, taking into account the Guidelines for the Alternative Care of Children annexed to United Nations General Assembly resolution 64/142 of 18 December 2009:**

(a) Further strengthen the support provided to biological families to prevent out-of-home placements, strengthen family-based care provisions, like extended family, foster care and residential care systems, and take all the necessary measures to ensure that alternative care for young children, especially those under the age of 3 years, is provided in family-based settings;

(b) Continue to develop and implement an overall deinstitutionalization strategy concerning residential care facilities, with precise goals and objectives, with a view to their progressive elimination, in line with the Common European Guidelines on the Transition from Institutional to Community-based Care;

(c) Provide adequate support and resources to ensure that children deprived of a family environment are treated with dignity and respect and benefit from effective protection in all care settings;

(d) Ensure the implementation of coordinated policies regarding alternative care, with special attention to the quality of care, both residential and family-based, in particular with regard to the professional skills, selection, training and supervision of caregivers;

(e) Strengthen its mechanisms for collecting and systematically analysing information and disaggregated data on children in all alternative care settings; the inspection and monitoring of the situation of children in alternative care; the support provided by the State party to children leaving alternative care to ensure their independent living; national policies and standards on staff recruitment, and the conduct and monitoring of staff, including procedures to report misconduct; training on care standards in alternative care settings; and the maintenance of up-to-date records, the confidentiality of records, and access to records by children, if required.

Adoption

43. The Committee welcomes the new adoption law, i.e. Decree Law No. 31/2003, which seeks to bring the adoption regime further into conformity with the Convention, training programmes for prospective adoptive candidates as well as the establishment of the Permanent Adoption Observatory. The Committee expresses concern regarding certain aspects of the adoption system and legislation, including the possibility of returning an adopted child without taking the child's best interests sufficiently into consideration, the lengthy process involved for adoptions, the lack of sufficient information and preparation to prospective adoptive parents, and adequate post-adoptive support to adoptive parents.

44. **The Committee recommends that the State party review current legislation and policies on adoption with a view to ensuring that the best interests of the child should be of paramount consideration, and that relevant legislation and policies are in line with the Convention on the Rights of the Child, the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) and the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption. The Committee also recommends that the State party ensure that the return of children takes place in exceptional cases only and with due regard to the principle of the best interests of the child; strengthen coordination among social services, family courts and others involved in the adoption process with a view to streamlining the process; provide adequate information and preparation to prospective adoptive parents, and post-adoptive support to adoptive parents.**

E. Disability, basic health and welfare (arts. 6, 18 (3), 23, 24, 26, 27 (1–3) and 33 of the Convention)

Children with disabilities

45. The Committee notes with satisfaction the adoption of laws and policies pertaining to children with disabilities, in particular relating to non-discrimination, access to education and the promotion of social inclusion, as well as establishing specialized support

mechanisms concerning referral, evaluation, and monitoring, including Decree Law Nos. 38/2004 and 3/2008 creating a new regime supporting students with special needs education, and the National Strategy for Disability (2011-2013). The Committee is nonetheless concerned that:

(a) Austerity measures have negatively affected the implementation of the National Strategy for Disability, including in regard to support services required for the successful mainstreaming of children with disabilities;

(b) Children with disabilities are not effectively integrated into all areas of social life;

(c) According to reports, children in institutions are allegedly subjected to ill-treatment; (d) According to complaints made to the Ombudsperson's Office, there are delays in processing applications for special education subsidies for children with disabilities, who are disproportionally at risk of poverty.

46. **In the light of article 23 of the Convention and of its general comment No. 9 (2006) on the rights of children with disabilities, the Committee urges the State party to:**

(a) Adopt a human rights-based approach to disability and continue to strengthen its efforts to promote and protect the rights of children with disabilities, including by allocating the necessary resources for the effective implementation of the National Strategy for Disability;

(b) Take all the necessary measures to ensure that children with disabilities are fully integrated into all areas of social life, including recreational and cultural activities;

(c) Ensure that schools and care facilities are adequately staffed and funded, and that children with disabilities are treated with dignity and respect, and benefit from effective protection;

(d) Address the alleged delays in the assessment of requests for the special education subsidy and in the processing of payments, review legislation to clarify aspects that have been hindering the process of granting the allowances, and ensure a fair and transparent review procedure in cases of initial rejection;

(e) Ensure that training is provided for professionals working with children with disabilities, such as teachers, social workers and health, medical, therapeutic and care personnel.

Health and health services

47. The Committee welcomes the progress achieved in the key child-health indicators, including infant mortality, under-5 mortality and child tuberculosis rates, and the adoption of the National Plan for Mental Health. The Committee also welcomes the information that health services are available to all children free of charge up to the age of 12, including children who are not nationals but are residing in Portugal, and undocumented children. Following a period of significant increases in investments in the National Health System (NHS), the Committee is, however, concerned about recent reductions in the National Health Service budget, which will negatively impact the fulfilment of children's right to health.

48. **The Committee draws the State party's attention to its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), and recommends that the State party minimize the impact of financial restrictions in the area of health care, and also recommends that austerity measures in**

the area of health care should be evaluated on the basis of a child-rights impact assessment to ensure that such measures do not have a negative impact on child health and well-being.

Mental health

49. The Committee welcomes the adoption of the National Plan for Mental Health (2007-2016), which assures mental health care to children and adolescents, mental health integrated continuing care and the creation of mental health community teams. The Committee is concerned, however, about the lack of specialists in children's mental health, of facilities and outpatient services for psychosocial rehabilitation, and of of information to ascertain the situation of mental health among children, in particular adolescents.

50. **The Committee, referring to its general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child, recommends that the State party strengthen available quality services and programmes of mental health for children and, in particular:**

(a) Develop a comprehensive national mental health policy with a clear focus on the mental health of children and adolescents, and ensure its effective implementation by allocating adequate funding and resources, and developing and implementing a monitoring system;

(b) Implement a multidisciplinary approach to the treatment of psychological and psychosocial ill-health and disorders among children by establishing an integrated system of child mental health care that involves parents, the family and schools, as relevant;

(c) Provide disaggregated data in the next periodic report on the number of children and adolescents receiving treatment, the number of facilities and outpatient services for psychosocial rehabilitation in the State party, and the distribution of facilities and services within the State party.

Adolescent health

51. The Committee notes the efforts undertaken by the State party with respect to health education in schools, including reproductive and sexual health, and the implementation of the Programme for Child Health and Youth and the Programme for the Prevention and Control of HIV/AIDS. The Committee is concerned at the lack of information on the scope of the above initiatives, on the number of children accessing services, especially in rural areas, on early pregnancies and on the prevalence of sexually transmitted diseases among adolescents.

52. **Referring to its general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child, the Committee recommends that the State party increase the availability of confidential and youth-friendly health services throughout the country, enhance the availability of contraceptive services, promote sexual education targeted at adolescents, with special attention to the prevention of early pregnancies and sexually transmitted diseases, and provide disaggregated data on adolescent health education, including sexual education, in schools.**

Drug and substance abuse

53. The Committee welcomes the 2009 Plan for Reducing the Problems Associated with Alcohol, and the provision of health education in all schools, including on the prevention of psychoactive substance consumption and drug use, as well as the 2005-2012 National Plan against Drugs and Drug Addiction and the Safe School Programme. The Committee

concerned, however, at the high level of alcohol consumption in the State party, which has a direct impact on children, the increase in alcohol consumption by adolescents and the increase in binge drinking. The Committee is also concerned about tobacco and illegal drug use among adolescents.

54. **The Committee, referring to its general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child, recommends that the State party strengthen measures to address alcohol consumption and abuse in general, as well as alcohol, drug and tobacco use by children and adolescents, through education programmes and campaigns to promote healthy lifestyles and to prevent the use of alcohol, tobacco and illegal drugs; the provision of life-skills education and the training of teachers, social workers and other relevant officials; and the enforcement of regulations on the sale and advertising of alcohol and tobacco products to children.**

Breastfeeding

55. Despite the measures taken by the State party to encourage exclusive breastfeeding in the first six months of life, including the National Programme for Child Health and Youth and the baby-friendly hospital initiative, the Committee is concerned at the decline in exclusive breastfeeding rates of children between the ages of four and six months, and the practice of providing complementary foods to infants from the age of four months. The Committee is also concerned at the aggressive marketing of formula for infants and at inadequacies in monitoring compliance with legislation on the marketing of breast-milk substitutes.

56. **The Committee recommends that the State party take action to improve the practice of exclusive breastfeeding for the first six months, through awareness-raising measures, including campaigns, the provision of information and training to relevant officials, particularly staff working in maternity units, and parents. The Committee also recommends that the State party strengthen the monitoring of existing marketing regulations relating to breast-milk substitutes.**

Standard of living

57. The Committee welcomes the State party's decision to increase family allowances and benefits for vulnerable households with children, i.e. single-parent families, families with two or more children, families with children with disabilities and families living in persistent poverty, the expansion of the school meal programme and the implementation of the Social Emergency Programme in 2011 with the aim of minimizing the social impact of the financial crisis on the most vulnerable households. The Committee is nonetheless concerned at the high level of deprivation among children and the implementation of austerity measures which have a negative impact on families, significantly increasing the risk of children being exposed to poverty and affecting the enjoyment of many of the rights protected by the Convention, including the rights to health, education and social protection.

58. **The Committee urges the State party to intensify its efforts to address, both in the short term and in a sustained manner, the high level of child poverty, including the design of public policies and a national plan to combat child poverty. These should establish a coherent framework identifying priority action against the exclusion of children, with specific and measurable objectives, clear indicators, deadlines and sufficient economic and financial support.**

F. Education, leisure and cultural activities (arts. 28, 29, 30 and 31 of the Convention)

Education, including vocational training and guidance

59. The Committee welcomes the introduction of compulsory education up to 18 years of age, and also notes the introduction of policies to increase the enrolment of children in preschool education, the number of children completing secondary education, including the New Opportunities Initiative, the number of students enrolled in tertiary education, and the enrolment levels of children from low-income families. The Committee also welcomes information that undocumented children have access to education in the State party and that citizenship and civic education, including human rights, forms part of the national curriculum at all school levels. The Committee is nevertheless concerned that the current financial crisis is severely affecting education in Portugal and is having a significant impact on the resources available for education, and that programmes are being discontinued. It is also concerned at regional disparities in preschool education coverage and at the high number of students dropping out of school with low skills. The Committee is further concerned at the persistence of traditional gender stereotypes in the education system of the State party.

60. **Taking into account its general comment No. 1 (2001) on the aims of education, the Committee recommends that the State party:**

(a) Refrain from further budgetary cuts in the education sector, and ensure that schools are provided with adequate human, technical and financial resources to provide high-quality education for all children;

(b) Provide greater access to preschool education for all children by expanding the public services and increasing support to the Programme for Support with Extending the Preschool Education Network to include the neediest municipalities and those furthest away from towns and cities;

(c) Strengthen efforts to reduce the premature dropout rate and take the necessary measures to ensure that children complete their schooling, including addressing the reasons behind the non-completion of schooling and repetition of grades through concrete actions, in line with the commitment of Portugal in the context of the European Union Strategic Framework for European Cooperation in Education and Training;

(d) Expand vocational education and training for children who have left school, enabling them to acquire competencies and skills to enhance their work opportunities;

(e) Strengthen the national plan of action for human rights education, as recommended in the framework of the World Programme for Human Rights Education proclaimed by the General Assembly in its resolution 59/113 of 10 December 2004; and mainstream gender equality policies in the education sector, ensuring that gender issues and sensitivity training are made an integral, substantive and mandatory component of all teacher training at all levels.

G. Special protection measures (arts. 22, 30, 32–33, 35–36, 37 (b)–(d), 38, 39 and 40 of the Convention)

Asylum-seeking and refugee children

61. The Committee welcomes the establishment of procedures for granting asylum and refugee status to children in accordance with Decree Law No. 27/2008, provisions exempting asylum seekers who are minors and their family members from detention at border crossing points during the admissibility stage of the proceedings, and information in the report of the State party that psychological care of such children is guaranteed through the National Health System. The Committee is concerned, however, about reports of lengthy and inadequate procedures regarding unaccompanied children, poor interviewing techniques, notably in the case of children, and the insufficient training and capacity-building of all stakeholders involved in the asylum application process. The Committee is also concerned about the conditions in reception centres, such as overcrowding.

62. **The Committee strongly recommends that the State party:**

(a) Ensure the timely processing of claims to reduce waiting times for asylum seekers;

(b) Improve asylum procedures regarding unaccompanied and separated children, in line with general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin, in particular by communicating the case to the Commission for the Protection of Children and Young People;

(c) Increase the accommodation capacity of the reception system to respond to the higher number of asylum seekers arriving in Portugal, and ensure that reception centres are child friendly and conform to applicable United Nations standards;

(d) Ensure that training and capacity-building are regularly provided to personnel dealing with asylum-seeking children, including asylum officials, border police, civil servants, judges, lawyers, personnel of non-governmental organizations and translators with respect to asylum and refugee matters and the specific needs of unaccompanied and separated children, issues concerning human trafficking and the treatment of traumatized children.

Economic exploitation, including child labour

63. The Committee welcomes the adoption of legislation, programmes and policies, aimed at combating the economic exploitation of children, including child labour, and in particular, the Plan for the Elimination of Child Labour and the Programme for Inclusion and Citizenship. The Committee is concerned, however, that child labour is a residual reality in Portugal and that budget cuts to various programmes due to the financial crisis along with high rates of early dropout from schools could reverse the notable progress in relation to the elimination of child labour. The Committee is also concerned about legislation regulating the participation of children in performances and other activities of a cultural, artistic or advertising-related nature, in particular the excessive working time for children who are in compulsory education.

64. **The Committee recommends that the State party:**

(a) Continue to strengthen programmes aimed at preventing child labour, such as the Programme for the Prevention and Elimination of Child Labour and the Programme for Inclusion and Citizenship;

(b) Collect data to adequately assess the situation of child labour in Portugal, including information on the daily and weekly working time for children subject to compulsory education;

(c) Review legislation in relation to the participation of children in performances or other activities of a cultural, artistic or advertising-related nature to ensure that it does not lead to potential situations of child labour;

(d) Strengthen the monitoring of places of work in both the formal and informal sectors to ensure enforcement of the labour laws regarding children;

(e) Ratify International Labour Organization Convention No. 189 (2011) concerning decent work for domestic workers.

Administration of juvenile justice

65. The Committee welcomes the adoption of legislation further implementing the reform of the juvenile justice system, as well as the Mediation and Reparation Programme for offenders between the ages of 12 and 16 with a view towards their reintegration in society through education. The Committee also notes the information provided by the State party that children aged 16 and over benefit from the full protection of their rights in the context of juvenile justice proceedings, in accordance with Decree-Law No. 401/82. The Committee is nevertheless concerned that children are not systematically involved in the proceedings and at the lack of adequate training of those involved in the administration of juvenile justice, as well as possible discrimination against immigrants and ethnic minorities in the judicial system. The Committee is also deeply concerned that children aged 16 and 17 can by law be held in solitary confinement for up to 30 days.

66. **The Committee recommends that the State party continue to bring its juvenile justice system fully into line with the Convention, in particular articles 37, 39 and 40, and with other relevant standards, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), the Guidelines for Action on Children in the Criminal Justice System, the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, and the Committee's general comment No. 10 (2007) on children's rights in juvenile justice. In particular, the Committee recommends that the State party:**

(a) Take measures to ensure the quality of those involved in the administration of juvenile justice and provide training to professionals, such as police officers, prosecutors, legal and other representatives of the child, judges, probation officers, social workers and others;

(b) Assess the situation and take effective measures to combat racial discrimination in the juvenile justice system;

(c) Prohibit and abolish the use of solitary confinement to punish children, and immediately remove all children held in solitary confinement.

H. Ratification of international human rights instruments

67. **The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the core human rights instrument**

to which it is not yet a party, namely, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

I. Cooperation with regional and international bodies

68. **The Committee recommends that the State party continue to cooperate with the Council of Europe on the implementation of the Convention, both in the State party and in other Council of Europe member States.**

J. Follow-up and dissemination

69. **The Committee recommends that the State party take all appropriate measures to ensure that the present recommendations are fully implemented by, inter alia, transmitting them to the Head of State, the Assembly of the Republic, relevant ministries, the Supreme Tribunal of Justice and local authorities, for appropriate consideration and further action.**

70. **The Committee also recommends that the combined third and fourth periodic reports and written replies of the State party and the present concluding observations of the Committee be made widely available in the languages of the country, including, but not exclusively, through the Internet, to the public at large, civil society organizations, the media, youth groups, professional groups and children, in order to generate debate and awareness of the Convention and its Optional Protocols and of their implementation and monitoring.**

K. Next report

71. **The Committee invites the State party to submit its combined fifth and sixth periodic reports by 20 October 2017 and to include therein information on the follow-up to the present concluding observations. The Committee draws attention to its harmonized treaty-specific reporting guidelines adopted on 1 October 2010 (CRC/C/58/Rev.2 and Corr.1) and reminds the State party that future reports should be in compliance with the guidelines and not exceed 60 pages. The Committee urges the State party to submit its report in accordance with the guidelines. In the event that a report exceeding the page limitation is submitted, the State party will be asked to review and resubmit the report in accordance with the above-mentioned guidelines. The Committee reminds the State party that if it is not in a position to review and resubmit the report, then translation of the report for the purpose of its consideration by the treaty body cannot be guaranteed.**

72. **The Committee also invites the State party to submit an updated core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting, approved at the fifth Inter-Committee Meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3).**